

JS 44 (Rev. 06/17)

## CIVIL COVER SHEET

The JS 44 Civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Danita L. Myree

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David L. Lutz, Handler, Henning & Rosenberg, LLP,  
1300 Linglestown Road, Suite 2, Harrisburg, PA  
717-238-2000

## DEFENDANTS

Alan N. Marc and Zook Trucking, LLC

County of Residence of First Listed Defendant Lancaster

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☐ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER/STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1332(a) and F.R.C.P. 8(a)(1)

## VI. CAUSE OF ACTION

Brief description of cause:  
Defendant changed lanes and violently struck Plaintiff's vehicle

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
\$75,000.00+

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

JUL 31 2017

DATE  
07/25/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**EGS**

## UNITED STATES DISTRICT COURT

**17****3414**

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.**

Address of Plaintiff: Danita L. Myree, 639 N. Laburnum Avenue, Richmond, VA 23223

Address of Defendant: Alan N. Marc, 413 Quarry Rd., New Holland, PA 17557; Zook Trucking, LLC, 215 N. Harvest Rd., Bird in Hand, PA 12505

Place of Accident, Incident or Transaction: 195 Northbound at Exit 79, Richmond City, Virginia

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

**A. Federal Question Cases:**

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify) \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☒ Marine Personal Injury
5. ☒ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) \_\_\_\_\_
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) \_\_\_\_\_

**ARBITRATION CERTIFICATION**

(Check Appropriate Category)

- I, Andrew C. Spears, counsel of record do hereby certify:
- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☒ Relief other than monetary damages is sought.

DATE: 07-25-2017

Attorney-at-Law

87737

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: \_\_\_\_\_

Attorney-at-Law

Attorney I.D.#

JUL 31 2017



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Danita L. Myree

v.

Alan N. Marc and Zook Trucking, LLC

CIVIL ACTION

**17 3414**  
NO.

*(A/R)*

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

*(X)*

July 25, 2017

**Date**

717-238-2000

**Telephone**

*(Signature)*  
**Attorney-at-law**

717-233-3029

**FAX Number**

Danita L. Myree

**Attorney for**

spears@hhrllaw.com

**E-Mail Address**

7/4/17  
EGS

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**DANITA L. MYREE,**  
639 Laburnum Avenue  
Richmond, VA 23223,

**Plaintiff,**

**v.**

**ALAN N. MARC,**  
413 Quarry Road  
New Holland, PA 17557

**ZOOK TRUCKING, LLC,**  
215 N. Harvest Road  
Bird in Hand, PA 12505

**Defendants.**

NO.:

**17 3414**

**CIVIL ACTION – LAW**

**COMPLAINT**

Plaintiff, Danita L. Myree (“**Ms. Myree**”), by and through her attorney, **HANDLER, HENNING & ROSENBERG, LLP**, makes this Complaint against the Defendants, Alan N. Marc (“**Marc**”) and Zook Trucking, LLC (“**Zook**”), (collectively “**Defendants**”), and avers as follows:

1. Ms. Myree is a competent adult individual currently residing at 639 N. Laburnum Avenue, Richmond, Virginia, 23223.
2. Marc is a competent adult individual currently residing at 413 Quarry Road, New Holland, Pennsylvania, 17505.
3. At all times material hereto, Marc was a professional commercial vehicle driver with a Pennsylvania Commercial Driver’s license.
4. Zook is a Pennsylvania corporation with a principal place of business at 215 North Harvest Road, Bird in Hand, Pennsylvania, 17505.



5. Zook operates under U.S. Department of Transportation No. 52271800 and Motor Carrier No. 218354.

6. Ms. Myree invokes jurisdiction of this Court under 28 U.S.C. § 1332(a) and F.R.C.P. 8(a)(1) as this is a civil action between citizens of different states.

7. Venue lies in the Eastern District of Pennsylvania under 28 U.S.C. § 1391 as both defendants reside in Lancaster County, Pennsylvania.

8. At all times material hereto, Ms. Myree, was the operator and owner of a 2008 Nissan, four-door, bearing the Virginia license plate number XHH6765 (**"Plaintiff's Vehicle"**).

9. At all times material hereto, Marc was the operator of a 2002 Peterbilt Truck Tractor, owned by Zook, and bearing the Pennsylvania license plate number AF41226 (**"Defendants' Vehicle"**).

10. Defendants' Vehicle was operated by Marc with the express permission of Zook.

11. At all times material hereto, Marc operated Defendants' Vehicle in the furtherance of the business of Zook.

12. At all times material hereto, Marc was an employee, agent, and/or servant of Zook, and while performing acts alleged in this complaint, he was acting within the course and scope of such employment, agency, direction and/or commission.

13. At all times material hereto, Ms. Myree was insured under an automobile policy with Geico Insurance Company.

14. At all times material hereto, there were no adverse road or weather conditions.

15. On September 15, 2015, Marc was traveling northbound on I-95 in the center lane approaching exit 79.

16. Northbound I-95 is a paved, three-lane roadway, with same direction lanes

designated by broken white lines, with a posted speed limit of 55 miles-per-hour.

17. At approximately 4:22 p.m., Ms. Myree was lawfully traveling north on I-95 in Richmond, Virginia in the right lane.

18. At approximately the same time and place, Defendants' Vehicle was abreast with Plaintiff's Vehicle when Marc began to change lanes into the right lane.

19. Defendants' Vehicle violently collided into Plaintiff's Vehicle causing Plaintiff's Vehicle to run off the road and strike the guardrail.

20. As a direct and proximate result of the negligence of Marc, Ms. Myree sustained damages as set forth more specifically below.

**COUNT I – NEGLIGENCE**  
**DANITA MYREE V. ALAN MARC**

21. All prior paragraphs are incorporated herein as if fully set forth below.

22. The occurrence of the aforementioned collision and all the resultant damages to Ms. Myree are the direct and proximate result of the negligence of Marc, generally and more specifically as set forth below:

- a. In driving in a careless manner;
- b. In failing to be reasonably vigilant to observe Plaintiff's Vehicle;
- c. In failing to properly and adequately observe the traffic conditions then and there existing;
- d. In failing to keep a proper lookout for vehicles lawfully traveling north on I-95 abreast to him;
- e. In negligently changing lanes into the right lane that was occupied by Plaintiff's Vehicle

- f. In failing to exercise the high degree of care required of a motorist traveling on the highway;
  - g. In disregarding the condition of the highway, and the traffic upon the highway;
  - h. In failing to be continuously alert, in failing to perceive any warning of danger that was reasonably likely to exist, and in failing to have his vehicle under such control that injury to persons or property could be avoided.
23. As a direct and proximate result of the negligence of Marc, Ms. Myree has:
- a. suffered personal injuries including, but not limited to, bruised ribs, left arm and shoulder pain, and neck pain;
  - b. has undergone continuing medical care for her injuries, which she will continue to endure for an indefinite period of time in the future, to her detriment and loss;
  - c. has suffered physical pain, discomfort, and mental anguish, which she will continue to endure the same for an indefinite period of time in the future, to her physical, emotional, and financial detriment and loss;
  - d. has been compelled, in order to affect a cure for the aforesaid injuries, to spend money for medicine and/or medical attention and will be required to spend money for the same purposes in the future, to her detriment and loss;
  - e. has suffered a loss of life's pleasures and will continue to suffer in the future, to her detriment and loss;
  - f. has suffered a loss of income and/or earning capacity which she will continue to endure for an indefinite period of time in the future, to her physical, emotional, and financial detriment and loss

g. has been, and will in the future continue to be, hindered from attending to her daily duties and chores, to her detriment, loss, humiliation, and embarrassment;

24. Ms. Myree believes and, therefore, avers that her injuries are permanent and serious in nature.

**WHEREFORE**, Plaintiff, Danita Myree, demands judgment on her behalf against Defendant, Alan Marc, in an amount in excess of \$75,000.00, exclusive of interest and costs.

**COUNT II- VICARIOUS LIABILITY**  
**DANITA MYREE v. ZOOK TRUCKING, LLC**

1. All prior paragraphs are incorporated herein as if set forth fully below.
2. At all times material to this action, Marc was an agent, servant, and/or employee of Zook.
3. The occurrence of the aforementioned collision and the resultant injuries to Ms. Myree are the direct and proximate result of the negligent, careless conduct of Marc.
4. The aforementioned negligent, careless conduct of Marc occurred while acting in and upon the business of Zook and within the course and scope of his employment with Zook.
5. Zook is vicariously liable for the acts of its agent, servant, or employee.
6. Zook is vicariously liable for the negligent and careless behavior of Marc.
7. Zook is vicariously liable for Ms. Myree:
  - a. sustaining serious personal injuries including, but not limited to, bruised ribs, left arm and shoulder pain, and neck pain;
  - b. undergoing medical care for her injuries, which she will continue to require in the indefinite future;
  - c. being, now and in the future, hindered from performing her daily duties and chores, to her great loss, humiliation and embarrassment;



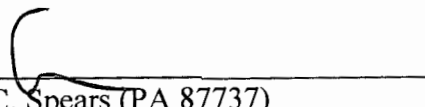
- d. suffering great physical pain, discomfort and mental anguish which she will continue to endure for an indefinite period of time in the future, to her great physical, emotional and financial detriment and loss;
- e. being compelled, in order to affect a cure for the aforesaid injuries, to spend money for medicine and/or medical attention for which she will be required to spend money for in the future, to her detriment and loss;
- f. suffering a loss of income and/or earning capacity which she will continue to endure for an indefinite period of time in the future, to her physical, emotional, and financial detriment and loss; and
- g. suffering a loss of life's pleasures, which she will continue to suffer in the future, to her great detriment and loss.

**WHEREFORE**, Plaintiff, Danita Myree, demands judgment on her behalf and against Defendant, Zook Trucking, LLC, in an amount in excess of \$75,000.00, exclusive of interest and costs.

Respectfully submitted,  
**HANDLER, HENNING & ROSENBERG, LLP**

Date: July 25, 2017

By:

  
\_\_\_\_\_  
Andrew C. Spears (PA 87737)  
**HANDLER, HENNING & ROSENBERG, LLP**  
1300 Linglestown Road, Suite 2  
Harrisburg, PA 17110  
Ph. 717.238.2000  
spears@hhrlaw.com

*Attorneys for Plaintiff,  
Danita Myree*